



## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0175]

#### Hours of Service of Drivers: National Propane Gas Association; Application for Exemption

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that it has received an application from the National Propane Gas Association (NPGA) for an exemption to waive various hours-of-service (HOS) requirements to enable the propane industry to prepare and respond to peak periods of consumer demand among residential, agricultural, and commercial consumers in anticipation of, during, and to recover from emergency conditions. NPGA requests that the exemption apply on a per-driver, per-route basis, and that each company that elects to utilize it must maintain appropriate documentation to demonstrate the presence of peak consumer demand conditions within the scope of the exemption. FMCSA requests public comment on the applicant's request for exemption.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**.]

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2022-0175 by any of the following methods:

- **Federal eRulemaking Portal:** [www.regulations.gov](https://www.regulations.gov). See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2022-0175) for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the **Privacy** heading below.

**Docket:** For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

**Privacy:** In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice DOT/ALL 14 – FDMS, which can be reviewed at <https://www.transportation.gov/privacy>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 366-2722 or by e-mail at [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2022-0175), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov) and put the docket number (“FMCSA-2022-0175”) in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

## **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to

the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Applicant's Request**

The National Propane Gas Association (NPGA) requests a five-year exemption for its member company drivers to extend the 14-hour duty period in § 395.3(a)(2) to no more than 17 hours; to extend the 11-hour driving period in § 395.3(a)(3) to no more than 14 hours, following 10 consecutive hours off duty; to waive the 60- and 70-hour rules in § 395.3(b) for a period of no more than six consecutive days; and a period of six consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours. The exemption request is made in order to enable the propane industry to prepare and respond to peak periods of consumer demand among residential, agricultural, and commercial consumers.

NPGA is the national trade association of the propane industry with a membership of nearly 2,500 companies and 36 State and regional associations representing members in all 50 States. Their membership includes retail marketers of propane gas who deliver the fuel to the end user, propane producers, transporters and wholesalers, and manufacturers and distributors of equipment, containers, and appliances. NPGA's

petition states that, as a result of various consumer needs, long- and short-haul propane drivers often reach the maximum operating hours-of-service (HOS) “weekly” limits within three or four days, and subsequently, operations experience reductions in available drivers while consumer demand continues. According to NPGA, the purpose of their request is to efficiently and safely prepare and serve residential, commercial, and agricultural consumers ahead of and during peak consumption periods. To clearly define the “scope” in its application, NPGA provides a brief outline of the terms and conditions to apply to those individuals providing propane services for periods of peak consumer demand.

A copy of NPGA’s application for exemption is available for review in the docket for this notice.

#### **IV. Request for Comments**

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on NPGA’s application for an exemption from various HOS requirements in 49 CFR 395.3 (a) - (c). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

---

Larry W. Minor,  
Associate Administrator for Policy.

